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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,654	04/05/2001	John R. Hindman	ODS-30	6566
1473	7590	11/18/2003	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			NGUYEN, BINH AN DUC	
			ART UNIT	PAPER NUMBER
			3713	9
DATE MAILED: 11/18/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/827,654	HINDMAN ET AL.	
	Examiner	Art Unit	
	Binh-An D. Nguyen	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 April 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5-8</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. The signed Declaration submitted in Paper No. 4, June 18, 2001 and the

Information Disclosure Statements filed in Papers No. 5-8, September 6, 2001, April 15

and July 12, 2002, and April 25, 2003, respectively, have been received. Currently,

claims 1-24 are pending in the application.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-14 and 20-24 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The systems claimed in claims 8-14 and 20-24 lack means to provide the game limitations. Note that, the claims should be amended to include the limitations such as: means to give the user... and means to automatically provide the user...

Further, in claims 8, 11-14, 20, and 22-24, the recited term "configured to" should be changed to "comprising" or "comprises" for clarity.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3713

5. Claims 1-5 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenner et al. (5,830,068).

Brenner et al. teaches an interactive wagering system and method for providing a user with information related to wagering, comprising: means (or step) to give the user the ability to create a wager for a specific race (9:49-60 and 10:3-8); means to automatically provide the user with information related to the race wherein an indicator is used to indicate to the user availability of the information (9:6-48); wherein the information is an alert that the race is finished (9:56-67) and an alert that the race has not yet started (Figs. 9 and 10); the indicator is selected from a group consisting of a display overlay (Figs. 9 and 10); means to give the user the ability to obtain additional information on the wager (Figs. 8-12); means to automatically provide the user with information related to the race wherein the information is provided in response to the user placing the wager (9:52-60). See also, Figures 1-50 and columns 1-28.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 7, and 13-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (5,830,068) as applied to claims 1-5 and 8-12 above, and further in view of Miller (5,255,915).

Brenner et al. teaches all limitations of claims 1-5 and 8-12. Brenner further teaches the limitations of automatically providing the user with information related to the race comprises giving the user the ability to place the wager (Figure 12); and means (or step) for providing the user with the ability to place the wager before the race (claims 17 and 22); means (or step) for providing the user with the ability to place the wager before the race comprises providing the user with a selectable option (Figs. 8-18); automatically placing the wager in response to the user selecting the selectable option (Figs. 12-15); and means (or step) for providing the user with information related to the wager in response to the user selecting the selectable option (2:30-4:42).

Brenner et al. does not explicitly teach the limitations of means (or step) for providing information to the user in response to the user neglecting to place the wager (claims 6 and 13); and means (or step) for automatically providing the user with an indicator wherein the indicator is used to remind the user to place the wager before the race (claims 15 and 20).

Miller, however, teaches an interactive video game comprising means (or step) for providing information to the user in response to the user neglecting to place the wager; and means (or step) for automatically providing the user with an indicator wherein the indicator is used to remind the user to place the wager before the game. See figure and column 4, lines 40-58).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide Brenner et al.'s interactive wagering system and method with the wager detection techniques, as taught by Miller, to enhance wager

security in an interactive racing system thus attracts more game players and bring forth profits.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

BN


Teresa Walberg
Supervisory Patent Examiner
Group 3700